

REMARKS

This responds to the Office Action dated on October 12, 2007.

No claims are amended, claims 246-258 are added; as a result, claims 1-9 and 246-258 are now pending in this application. New claims 246-258 are based on claims 268-272 of the parent application that were cancelled by agreement with the Examiner of that application. Thus, no new matter was added.

Declaration and Power of Attorney

A new declaration is being submitted herewith.

Consent of Assignee

The written consent of all assignees owning an undivided interest in the patent is being submitted herewith.

§251 Rejection of the Claims

Claims 1-9 was rejected as being based upon a defective reissue declaration under 35 U.S.C. 251. A new declaration is being submitted herewith. It is respectfully requested that the rejection be withdrawn.

§103 Rejection of the Claims

Claims 1-6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2004/0261127, App. no. 10/765,044 (Freeman II) in view of U.S. Patent No. 5,524,001 (Beaudry).

Claims 7-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Freeman II and Beaudry, further in view of U.S. Patent No. 5,757,416 (Birch).

The claims of the present application all have an effective filing date of April 28, 1994. That is the filing date of application serial no. 08/233,908, that issued as US patent no. 5,819,034, and of which the present application is a reissue.

In contrast, Freeman II, App. no. 10/765,044, claims priority through a chain that includes 3 continuation-in-part applications. Specifically, Freeman II is a continuation of application Ser. No. 08/815,168, filed Mar. 11, 1997, which is a continuation-in-part of application Ser. No. 08/598,382, filed Feb. 8, 1996, which is a continuation-in-part of application Ser. No. 08/443,607, filed May 18, 1995, which is continuation-in-part of application Ser. No. 08/166,608, filed Dec. 13, 1993, now abandoned, which in turn is a continuation of application Ser. No. 07/797,298, filed Nov. 25, 1991, now abandoned. (Freeman II, [0001].) (Application Ser. No. 08/598,382 issued as patent no. 5,861,881. Application Ser. No. 08/443,607 issued as patent no. 5,724,091.) As a result, Freeman II may be considered as prior art with respect to the current application only to the extent of the content disclosed in application Ser. No. 08/166,608, filed Dec. 13, 1993 (Freeman I).

Freeman I discloses an interactive program comprising a plurality of video signals related to time and content to one another." (Freeman II, page 3, lines 13-14.) Freeman I explains that, in practice, a user selects a desired interactive program to be viewed by selecting a television channel having multiplexed video thereon. (Freeman II, page 5, lines 1-3.) Thus, while Freeman I discloses a television program that comprises various types of time and content related video signals that are suitable for interactive operation (Freeman II, page 8, lines 4-5), Freeman I fails to disclose or suggest a distributed computing application associated with a video program or any operations with respect to a distributed computing application.

Furthermore, it is submitted that the content relied upon by the Office action to show the features of claim 1 do not appear in Freeman I as explained below.

The Office action cites the control studio (Freeman II, FIG. 1) that allows a producer to create and introduce interactive elements during a live broadcast to show "a source of a data stream providing a series of time division multiplexed packets, ones of which contain auxiliary data that represent a video program, and others of which represent a distributed computing

application" recited in claim 1. The description of such control studio is wholly absent in Freeman I.

The Office action cites interactive data codes (Freeman II, [0041]) to show "a distributed computing application" recited in claim 1. The description of interactive data codes is wholly absent in Freeman I.

The Office action cites a digital cable box with a digital demultiplexor that extracts graphics data from the transmitted data (Freeman II, [0088] - [0089]) to show "a client computer, which includes a packet selector connected to said source for selecting and directing packets containing said auxiliary data representing said video program to a video signal processor and selecting and directing packets containing said associated distributed computing application to a further processor" recited in claim 1. The description of a digital cable box having these features is wholly absent in Freeman I.

In order to show "further processor including means to assemble said distributed computing application and execute said distributed computing application to form an interactive video program in which execution of said distributed computing application alters said video program," recited in claim 1, the Office action cites the passages reproduced below.

[0087] While the digital interactive box 25 of FIG. 2 provides video interactivity, audio and/or graphics interactivity is also provided. For example, if, based on the viewer profile or viewer response to query, it is determined that the viewer's primary language is Spanish, then that viewer could obtain Spanish commentary to the football, soccer, etc. game. Alternatively, if a viewer has a favorite athlete, the audio can switch to an interview with the athlete during a segment of the broadcast. Multiple digital audio options forming a set of suitable responses to an interrogatory message can be sent as part of the composite digital signal. As set forth in U.S. Pat. No. 5,585,858, herein incorporated by reference, there are a number of different ways to effectively forward the necessary audio options for a given live event to the digital interactive box 25. With the present invention, it makes no difference how the audio options reach the digital

interactive box 25, as long as they are available for selection and play at the appropriate times.

[0088] In FIG. 2, the digital demultiplexer 210 extracts the digital audio signal(s) and forwards them to the audio switch 250. Additional audio options are available from the digital audio memory 255. At certain times during the program, the data codes will identify the selection of a particular audio option corresponding to previous user inputs. The controller 260 calls the appropriate audio options from internal memory 255 or directs the audio switch 250 to select a predetermined audio segment received as part of the received digital signal for passage to the RF modulator 245 for play to the subscriber. At the end of the audio segment time period as indicated by the data codes, the controller 260 instructs the audio switch 250 to again pick up standard audio.

[0089] The digital demultiplexer 210 sends the extracted graphics data or ACTV data codes to the controller 260. The controller 260 interprets the extracted data as either control data, including instructions for switching between video signals, audio signals, or graphics data for on-screen display. If the data is on-screen display data, the data is preferably prefixed by a command designating the data as on-screen display data, as opposed to control data. Further, the controller 260 also examines the control data for the occurrence of a header code designating the onset of a trigger point 500 in the program, explained below.

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[0115] The trigger points 500 correspond to the times when the conventional program content can be altered and personalized for the viewers. The programmer can place the trigger points 500 at any time throughout the program. Since the trigger points 500 are unknown to the subscriber, the subscriber does not know when they will receive a personalized message. In other words, an interactive response can either immediately follow a corresponding user selection made to an interrogatory message or occur at a later time corresponding

to a trigger point 500, or any combination of the two. Of course, timing of the interactive events should correspond to suitable times in the program where branching to interactive elements is sensible and does not clash with the program content of the conventional video still displayed on the television 165 or other display monitor.

[0116] At the onset of a trigger point 500, the controller 260 will select one of several possible audio (or video or graphic display) responses for presentation to the subscriber. As mentioned above and shown in FIG. 5, some of the responses may comprise a branch to either a video segment, graphics and/or audio segments.

[0117] In combination with the use of trigger points 500, the present invention allows for the viewer to select certain options at the onset of the program to suit the viewers³ preferences. For example, if the program broadcast is a live sports event 10, at an early trigger point 500, the viewer could be queried as to whether the viewer would prefer to receive audio in English, Spanish, French, or perhaps hear the local announcer instead of the network announcer. Upon the viewer selection, the CPU 260 directs a branch to the appropriate interactive segment.

[0118] Each trigger point 500 is identified preferably through the broadcast of ACTV codes sent as part of the composite interactive program signal. The codes preferably include, at a minimum, the following information: (1) header identifying the occurrence of a trigger point 500; (2) function ID (e.g., selection of audio or graphics responses, etc.); and (3) corresponding interrogatory message(s) or particular viewer characteristic or habit based on viewer profile. The first bit sequence simply identifies to the controller that a trigger point 500 is about to occur. The function ID designates the macro or other set of executable instructions for the controller 260 to read and interpret to obtain the desired result, e.g., a selected video and/or audio response.

(Freeman II, [0087-0089] and [0115-0118].)

The subject matter of the description reproduced above or any reference to execution of a distributed computing application is wholly absent in Freeman I.

Thus, Freeman I fails to disclose or suggest the features of claim 1. It is respectfully requested that the rejection of claim 1-9 in view of Freeman be withdrawn.

The feature of claim 1 that reads "wherein said distributed computing application is repetitively transmitted independent of receiving client computer apparatus during times that said video program is transmitted" was addressed in the Office action as follows by citing "cyclical transmission of data" in Beaudry.

Beaudry discloses transmitting signals on any cyclic or non-cyclic schedule, where the signals, assembled into packets, can be transmitted any predefined number of times. (Beaudry, 2: 50-68.) A packet or a group of packets does not amount to an executable application in general or to "a distributed computing application," recited in claim 1, in particular. Furthermore, transmitting one or more packets multiple times or according to a schedule does not amount to an operation of transmitting a distributed computing application repetitively, independent of the receiving client, and during times that a certain video program is being transmitted. Thus, Beaudry fails to disclose or suggest "wherein said distributed computing application is repetitively transmitted independent of receiving client computer apparatus during times that said video program is transmitted" recited in claim 1. Therefore, claim 1 and its dependent claims would be patentable in view of Beaudry even if Freeman II was cited properly to show the remaining features of claim 1.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at 408-278-4052 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Serial Number: 09/903,458

Dkt: 2050.001US4

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Title: APPARATUS FOR TRANSMITTING AND RECEIVING EXECUTABLE APPLICATIONS AS FOR A MULTIMEDIA SYSTEM,
AND METHOD AND SYSTEM TO ORDER AN ITEM USING A DISTRIBUTED COMPUTING SYSTEM

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402
408-278-4052

Date 04-14-08

By /Elena Dreszer/

Elena B. Dreszer
Reg. No. 55,128

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Tamara D. Gresham - U.S. Patent
Name

[Signature]
Signature